

REMARKS

Claims 1, 3, 8, 10, 15, and 17 have been amended. Support for the amendments can be found at least in ¶ [0031] of the application.

Rejection under 35 U.S.C. § 101

Claims 15, 17, and 19-21 stand rejected under 35 U.S.C. §101 since in ¶ [0051] of the specification the “[A]pplicant has provided evidence that [A]pplicant intends the ‘medium’ to include ‘transmission type media such as digital and analog communication links, as well as media storage and distribution system developed in the future.’” See Office Action, p. 2. Applicants traverse this rejection on the basis that the Applicants filed an amendment to the specification removing the phrases “transmission type media such as digital and analog communication links, as well as media storage and distribution systems,” and “and distribution systems.” This amendment was filed with the communication filed on August 21, 2006.

Rejection under 35 U.S.C. § 112

Claims 1, 8, and 15 stand rejected under 35 U.S.C. § 112 since they “recite[d] ‘replicating second data to be written to said data volume of said second node to a data volume of a third node, wherein the second data is not replicated to the data volume of the third node in an order in which the second data is to be written to the data volume of the second node’, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed

invention.” *See* Office Action, p. 3. The Applicants traverse this rejection on the basis that claims 1, 8, and 15 have been amended to remove the relevant limitation.

Claim 8 was further rejected under 35 U.S.C. § 112 since it “recite[d] ‘**the second device is not configured** to replicate the second data to the data volume of the third node in an order in which the second data is written to the data volume of the second node’ which render the claim indefinite...” *See* Office Action, p. 4. The Applicants traverse this rejection on the basis that claim 8 has been amended to remove this limitation.

Rejection under 35 U.S.C. § 102

Claims 1, 3, 5-8, 10, 12-15, 17, and 19-21 stand rejected under 35 U.S.C. § 102(e) as purportedly being anticipated by US 2003/0014432 A1 (“Teloh”). Applicants traverse this rejection.

Independent claims 1, 3, 8, 10, 15, and 17 have been amended to recite periodic replication at a first frequency between a first set of nodes and at a second frequency between a second set of nodes wherein the first frequency is higher than the second frequency. Teloh fails to teach this limitation. In ¶ [0059] Teloh states

In similar fashion, the transmission medium interconnecting each remote site may have a different bandwidth characteristic that effects the rate at which replicated data can be transmitted from site to site.

However, transmission rate and bandwidth should not be confused with the frequency of periodic replication.


Thus, for at least this reason, and the for the reason that all other rejected claims are dependent upon at least one of the independent claims 1, 3, 8, 10, 15, and 17, Applicants respectfully request that the Examiner reconsider and withdraw this rejection.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5093.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicant hereby petitions for such extensions. Applicant also hereby authorizes that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. § 1.16 or § 1.17, be charged to deposit account 502306.

Respectfully submitted,


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